

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:16-CV-62-BO

MICHAEL A. SMALL, Administrator of)
the Estate of Bertha Autry Small, deceased,)
)
Plaintiff,)
)
v.)
)
WELLDYNE, INC., a Florida Corporation,)
et al.,)
)
Defendants.)

ORDER

This cause comes before the Court on the WellDyne defendants' (defendants) motion for a ruling on their request for entry of summary judgment in their favor on plaintiff's claims for negligence *per se* and punitive damages made in their original motion for summary judgment. [DE 186]. Following the filing of defendants' motion, plaintiff stipulated to the dismissal of his negligence *per se* claims. [DE 187]. Plaintiff separately responded to defendants' motion as to his claim for punitive damages, asking the Court to deny defendants' request for entry of summary judgment on this issue. [DE 189].

As they have been dismissed, the Court need not consider whether defendants are entitled to summary judgment in their favor on plaintiff's negligence *per se* claims. The Court will reserve for trial a ruling on whether plaintiff is entitled to recover punitive damages. *See Martin v. MCAP Christiansburg, LLC*, 143 F. Supp. 3d 442, 449 (W.D. Va. 2015). Defendants' motion for summary judgment on this issue is therefore denied without prejudice to their making a motion pursuant to Fed. R. Civ. P. 50 at the appropriate time. Defendants' motion requesting a ruling on these issues [DE 186] is GRANTED.

It is further ORDERED that the jury trial in this matter shall commence on Tuesday, January 21, 2020, at 10:00 a.m. at the United States Courthouse, 310 New Bern Avenue, Raleigh, North Carolina.

SO ORDERED, this 3 day of December, 2019.


TERRENCE W. BOYLE
CHIEF UNITED STATES DISTRICT JUDGE